

Message Text

SECRET

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ACTION SS-30

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EXDIS

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TAGS: PLOS, SP

SUBJ: FOREIGN MINISTER'S LETTER TO SECRETARY ON

LAW OF SEA

REF: STATE 175651

1. FOLLOWING IS FREE TRANSLATION OF TEXT OF LETTER FROM FOREIGN MINISTER CORTINA TO SECRETARY IN REPLY TO SECRETARY'S LETTER OF AUGUST 13 ON LAW OF SEA. LETTER IS DATED AUG 24 BUT WAS NOT RECEIVED BY EMBASSY UNTIL SEPTEMBER 9 BECAUSE OF FOREIGN MINISTRY STAFF DELAYS ARISING OUT OF FOREIGN MINISTER'S PRESENCE IN SAN SEBASTIAN DURING MUCH OF AUGUST AND EARLY SEPTEMBER.

2. BEGIN TEXT.

"DEAR MR SECRETARY OF STATE:

AMBASSADOR RIVERO HAS TRANSMITTED TO ME, IN A LETTER OF AUGUST 13, YOUR MESSAGE CONCERNING THE DISCUSSION CURRENTLY TAKING PLACE IN THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA ABOUT THE REGIMEN OF TRANSIT THROUGH STRAITS. I WANT TO ASSURE YOU BEFORE I PROCEED THAT I HAVE CONSIDERED WITH THE GREATEST INTEREST AND THOROUGHNESS THE CONTENTS OF YOUR LETTER.

I JUDGE IT ESSENTIAL IN THIS MATTER TO REFER TO THE TWO LETTERS THAT THE CHIEF OF STATE, GENERALISMO FRANCO, ADDRESSED TO PRESIDENT RICHARD NIXON ON

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NOVEMBER 18, 1971, AND MARCH 15, 1972, IN WHICH HE

EXPRESSES THE REASONS THAT HAVE DETERMINED THE SPANISH POSITION ON CURRENT EFFORTS TO REVISE THE EXISTING RULES OF NAVIGATION THROUGH STRAITS REGULATED IN THE GENEVA CONVENTIONS OF 1958, TO WHICH BOTH SPAIN AND THE UNITED STATES ARE PARTIES.

AS YOU KNOW, THE RULES IN EFFECT RECOGNIZE THAT SHIPS OF ALL NATIONS HAVE THE RIGHT OF PASSAGE-- UNDER CERTAIN CONDITIONS-- THROUGH THE TERRITORIAL WATERS OF OTHER NATIONS, WHICH NATURALLY APPLIES TO STRAITS USED FOR INTERNATIONAL NAVIGATION LOCATED WITHIN THOSE TERRITORIAL WATERS. SPAIN HAS NEVER IMPEDED, NOR DOES IT PROPOSE TO IMPEDE, THE USE OF THAT RIGHT AS LONG AS IT IS USED IN AN INNOCENT MANNER, THAT IS TO SAY, WITHOUT ENDANGERING THE PEACE, THE SECURITY, OR ORDER, ACCORDING TO DECLARATIONS UPHELD BY INTERNATIONAL LAW. THE SPANISH STATE, LIKE ANY OTHER RIPARIAN STATE, HAS THE AUTHORITY TO DETERMINE THE NATURE OF TRANSIT OF ITS TERRITORIAL SEA-- INCLUDING THE STRAITS WITHIN THOSE WATERS--TAKING INTO ACCOUNT CONSIDERATIONS OF ITS LEGITIMATE DEFENSE, AS WELL AS EXERCISING THE POWER OF PROTECTION IN THE FACE OF AGGRESSORS, BOTH BEING EXPRESSIONS OF ITS UNRENOUNCEABLE SOVEREIGNTY. AS THE PROPOSAL OF THE UNITED STATES AND THE SOVIET UNION, AND OF VARIOUS OTHER DELEGATIONS, WOULD LEAD TO A RENUNCIATION OF THESE RIGHTS, WITH ABSOLUTE CHARACTER AND "ERGA OMNES", SPAIN CONSIDERED ITSELF OBLIGATED TO OPPOSE THEM FROM THE BEGINNING OF THE CONVERSATIONS OF THIS MATTER. WITH REGARD TO OVERFLIGHTS, THE INTERNATIONAL CONVENTIONS AND THE GENERAL PRINCIPLES OF INTERNATIONAL LAW UPHOLD THE SOVEREIGNTY OF A STATE OVER THE AIRSPACE OVERLYING ITS TERRITORY AND TERRITORIAL WATERS, WITHOUT MAKING ANY EXCEPTION OR CONCEDING MORE RIGHTS FOR OVERFLIGHTS THAN THOSE EXPRESSLY AGREED UPON. IN THIS RESPECT, THE EXISTING ARRANGEMENTS BETWEEN SPAIN AND THE UNITED STATES ADEQUATELY REGULATE THESE EXTREMES AND THEY CAN ALWAYS BE CHANGED BILATERALLY.

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I MUST INDICATE, ON THE OTHER HAND, THAT IN TAKING THIS POSITION SPAIN TOOK INTO ACCOUNT, IN ADDITION TO THE REASONS OF OBJECTIVE JUSTICE, THE FACT THAT THE STRAITS OF GIBRALTAR ARE VITAL FOR SPAIN. SPANISH TERRITORY LIES ON BOTH SIDES OF THE STRAITS, COMPROMISING EXTENSIVE COASTLINES AND IMPORTANT CITIES AND PORTS, WHOSE SECURITY MUST REMAIN PROTECTED AND WHOSE COMMUNICATIONS MUST BE

GUARANTEED AT ALL TIMES. THE INTENSE TRAFFIC WHICH MOVES THROUGH THE STRAITS REQUIRES EVER MORE EFFECTIVE REGULATION FOR THE PROTECTION OF NAVIGATION AND OF THE COASTS, ESPECIALLY BECAUSE TECHNOLOGICAL ADVANCES ENTAIL SO MANY OTHER CAUSES OF VULNERABILITY WHICH MUST BE LEGALLY GUARDED AGAINST.

THE UNIVERSAL CONCESSION OF UNCONDITIONAL FREEDOM OF NAVIGATION AND OVERFLIGHT THROUGHOUT THE STRAIT OF GIBRALTAR, THAT IS TO SAY, UP TO THE SPANISH COAST LINE ITSELF, WOULD LEAD TO THE ABANDONMENT BY SPAIN OF ITS LEGITIMATE POWERS AND WOULD BE EQUIVALENT TO THE LOSS OF ITS SOVEREIGNTY IN THE TERRITORIAL WATERS ENCOMPASSED IN SUCH AREA, WHICH COULD BE USED NOT ONLY BY THE UNITED STATES BUT ALSO BY POTENTIALLY HOSTILE STATES. IN ADDITION, THE SPANISH GOVERNMENT FINDS IT NECESSARY TO TAKE SPECIAL PAINS TO BRING TO YOUR ATTENTION THE STRATEGIC ASPECTS OF THIS ZONE AS LONG AS THE BRITISH MILITARY BASE OF GIBRALTAR CONTINUES TO EXIST, A CONDITION WHICH VIOLATES OUR TERRITORIAL INTEGRITY AND CONSTITUTES A SOURCE OF CONFLICT FOR OUR NATIONAL EXISTENCE AND A POTENTIAL THREAT TO OUR SECURITY.

IN EXPLAINING THE FOREGOING, I ALSO WANT TO EMPHASIZE--AS WAS DONE IN GENERAL FRANCO'S TWO LETTERS WHICH I EARLIER REFERRED TO--NOT ONLY THE PERMANENT FRIENDSHIP OF SPAIN TOWARDS THE UNITED STATES BUT THE DESIRE OF THE SPANISH GOVERNMENT TO COLLABORATE WITH YOUR GOVERNMENT ON ALL QUESTIONS WHICH AFFECT THE SECURITY OF BOTH. IN THIS SENSE, I AGREE WITH YOUR INVOCATION OF THE SPIRIT OF THE DECLARATION OF PRINCIPLES SUBSCRIBED TO BY OUR COUNTRIES

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THE PAST MONTH OF JULY, THAT SHOULD INSPIRE US IN THE SEARCH OF MEANS FOR SATISFACTORY UNDERSTANDING IN EACH CIRCUMSTANCE OF OUR RESPECTIVE INTERESTS.

YOU CAN BE ASSURED, MR. SECRETARY OF STATE, THAT I WILL BE AT ANY TIME PREPARED TO PERSONALLY DEAL WITH YOU ON THESE QUESTIONS AT THE OPPORTUNE OCCASION AND WITH THE SINCERE PURPOSE OF HARMONIZING THE DEMANDS OF OUR NATIONAL SECURITY WITH THE REQUIREMENTS OF SPANISH-NORTH AMERICAN COOPERATION. YOUR VERY CORDIAL FRIEND,
PEDRO CORTINA"
END TEXT.
RIVERO

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